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Paper No. 8

Patent Administrator
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MAY 21 2003

In re Application of:
SCHUTZBACH *et al.*
Application No. 10/092,950
Filed: March 08, 2002
Attorney Docket No.: 215185.00101

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed April 17, 2003, to make the above-identified application special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), § 708.02, Item II: Infringement.

The petition is **dismissed**.

A grantable petition under 37 C.F.R. § 1.102(d), and in accordance with M.P.E.P. § 708.02, Item II, must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(h), and a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

- (1) that there is an infringing device or product actually on the market or method in use;
- (2) that a rigid comparison of the alleged infringing device, product or method with the claims of the application was made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
- (3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must also provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition and accompanying verified statement do not comply with the above requirements for special status inasmuch as the statement provided does not state that there **is** an infringing device or product actually on the market or method in use, and that a **rigid comparison** of

the alleged infringing device, product or method with the claims of the application was made, and that, in his or her opinion, some of the claims are **unquestionably** infringed.

Accordingly, the petition is **dismissed**.

Should petitioner desire reconsideration, petitioner should supplement this petition by a statement providing the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.



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